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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,777	11/21/2001	M. Kevin Sorrels	5588-00101	1822

7590 10/23/2002

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EXAMINER

PATEL, TAJASH D

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,777

Applicant(s)

SORRELS, M. KEVIN

Examiner

Tejash D Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/21/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informalities: In claim 5, on line 1, the typographically error "productive" should be changed to -- protective-- . Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 35 is rejected under 35 U.S.C. 102(b) as being anticipated by Sorrels (US 5,450,626). Sorrels discloses a guard (10) including a distal portion having a protective portion (40,42) of a body being penetration resistant, col. 2, lines 41-48, with a less protective portion (44) positioned adjacent thereto, col. 3, lines 18-22 and as shown in figure 3

Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sorrels (US 5,450,626) in view of DeLeo (Re. 36,778). Sorrels discloses a guard (10) including a distal portion having a protective portion (40,42) of a body being penetration resistant, col. 2, lines 41-48, with a less protective portion (44), col. 3, lines 18-22 and as shown in figure 3. Further, an end of the body is uncovered so that a pad of the digit extends therethrough without covering a medial joint thereof as shown in figures 1 and 2. Additionally, the body covers substantial portion of a medial joint that is configured to contact a distal portion of the digit as shown in figure 5, 6, and 8.

A bead of material is formed between the protective and less protective portions as shown in figure 3, with the protective portion having a longer length than the less protective portion as shown in figures 2 and 4. However, Sorrels does not show the protective portion having a different color than the less protective portion.

DeLeo discloses a guard for a digit (14,16) of the hand including a protective portion which is differently colored/dyed from the less protective portion, col. 3, line 31- col. 6, line 15, as a visual indicia in order to ensure that the guard is properly positioned onto the digits and as shown in figures 4 and 6.

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It would have been obvious to one skilled in the art the time the invention was made to form the protective portion of Sorrels to be differently colored from the less protective portion as taught by DeLeo. Doing so, would provide a visual indicia, so that the protective portion of the guard is properly positioned relative to the digit.

With regard to claims 4-6 & 12-13, it is obvious that the guard can be made of any desired material which were available at the time the device was made.

With regard to claims 19 and 20, col. 4, lines 62-64, of Sorrels discloses that the circumferential extension of the protective portion/dorsal segment can extend a greater or lesser distance thereabout. Therefore, it would have been obvious to one skilled in the art to extend the protective portion about the digit as required for a particular application or end use thereof.

With regard to claims 7 and 21-23, col. 2, lines 41-49 of Sorrels states the guard forms a sheath which protects the fingers from intravenous needles. Therefore, it would have been obvious to one skilled in the art that the guard can be puncture resistance to needle having various gauges depending on the particular application of the device.

With regard to claims 11 & 26, col. 5, lines 66-68 of Sorrels states a covering is worn over the guard. Therefore, it would have been obvious to one skilled in the art that the guard will be visible through the cover when the device is worn in combination.

With regard to claims 10, 25, and 31, it would have been obvious to one skilled in the art the time the invention was made to provide the guard of Sorrels with indicia as taught by DeLeo.

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Doing so, would indicate the insertion depth of the body when used during an operation procedure or depending on the end use thereof.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

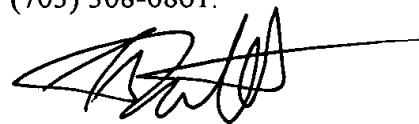
Any inquiry concerning this communication should be directed to Tejash Patel at telephone number (703) 306-9184.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached on (703) 305-1025.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

Patel/tp

October 18, 2002



Tejash Patel
Examiner
AU 3765